

Message Text

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ACTION ACDA-19

INFO OCT-01 EUR-25 EA-11 IO-14 ISO-00 CIAE-00 DODE-00

PM-07 H-03 INR-10 L-03 NSAE-00 NSC-07 PA-04 RSC-01

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC PRIORITY 4066

INFO AEC GERMANTOWN PRIORITY

AMEMBASSY BONN

AMEMBASSY ROME

AMEMBASSY TOKYO

USMISSION EC BRUSSELS

USMISSION GENEVA

C O N F I D E N T I A L IAEA VIENNA 2126

DISTO

E. O. 11652: GDS

TAGS: PARM, IAEA, IT

SUBJECT: ITALIAN RATIFICATION OF NPT

REF: (A) TOKYO 3143

(B) BONN 2787

(C) ROME 2510

SUMMARY. WE RECOMMEND US JOIN IN FRG'S INTENDED DEMARCHE IN
ROME IN FAVOR OF PROMPT ITALIAN RATIFICATION OF NPT AND IF
IAEA-EURATOM VERIFICATION AGREEMENT. END SUMMARY

1. IAEA DIRECTOR GENERAL EKLUND'S BELIEF THAT ITALY PLANNING
RATIFY ONLY IAEA-EURATOM VERIFICATION AGREEMENT AND NOT RPT NOT
NPT (PARA 5 REF A) MAY STEM FROM MISUNDERSTANDING OF
BREFING WE GAVE HIS EXTERNAL RELATIONS DIRECTOR (FISCHER)
ON SUBSTANCE OF PARA ONE REF C. POINT WE MADE, OF COURSE,
WAS THAT GOI HAS SUBMITTED VERIFICATION AGREEMENT TO PARLIAMENT
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AND PLANS TO SUBMIT TREATY BUT NOT RPT NOT UNTIL AFTER PARLIAMENT

RATIFIES VERIFICATION AGREEMENT. THIS APPEARS TO HAVE GOTTEN DISTORTED IN TRANSMISSION TO EKLUND AND TO DIRECTOR LEGAL DIVISION (OTSUKA, JAPANESE NATIONAL) WHOM FISCHER ASKED TO PREPARE LEGAL ANALYSIS OF WHETHER IAEA COULD AGREE TO ENTRANCE INTO FORCE OF IAEA-EURATOM VERIFICATION AGREEMENT EVEN THOUGH NPT NOT YET IN FORCE FOR ALL STATES PARTIES TO THE AGREEMENT. OTSUKA MAY WELL HAVE RELAYED HIS MISUNDERSTANDING TO JAPANESE MISSION HERE. WE HAVE CORRECTED OTSUKA'S IMPRESSION AND WE WILL TAKE FIRST OPPORTUNITY MAKE SURE JAPANESE MISSION ALSO HAS CLEAR UNDERSTANDING. WE HOPE US OFFICIALS WILL HAVE CHANCE TO CORRECT EKLUND'S KNOWLEDGE DURING HIS CURRENT VISIT TO US.

2. OTSUKA PROCEEDING IN ANY EVENT WITH LEGAL STUDY, AS QUESTION COULD STILL ARISE EVEN UNDER CORRECT VERSION OF ITALIAN PLAN: I.E., ITALY AND ALL OTHER STATES PARTY COULD RATIFY VERIFICATION AGREEMENT AND PRESSURE COULD ARISE FOR IMMEDIATE ENTRANCE INTO FORCE (FOR EXAMPLE, TO ASSURE EURATOM OF CONTINUING SUPPLY OF US-ENRICHED URANIUM), EVEN THOUGH ITALIAN PARLIAMENT HAD NOT YET COMPLETED ACTION ON TREATY. MOST SERIOUS OBSTACLE WOULD BE ARTICLE 25(B) OF SAFEGUARDS AGREEMENT, WHICH PROVIDES THAT "AGREEMENT SHALL REMAIN IN FORCE AS LONG AS THE STATES (PARTIES TO THE AGREEMENT) ARE PARTIES TO THE TREATY." OTSUKA POINTED OUT THAT DURATION CLAUSE CLEARLY IN APPLICABLE IN CASE OF STATE NOT PARTY TO NPT, AND WONDERED WHETHER IT POSSIBLE HAVE AGREEMENT ENTER INTO FORCE WITH DURATION CLAUSE OPERATIVE FOR SOME PARTIES BUT NOT FOR OTHERS. ON OTHER HAND, ARTICLE 25(A) PROVIDES THAT "AGREEMENT SHALL ENTER INTO FORCE ON DATE UPON WHICH AGENCY RECEIVES FROM THE COMMUNITY AND THE STATES WRITTEN NOTIFICATION THAT THEIR OWN REQUIREMENTS FOR ENTRY INTO FORCE HAVE BEEN MET", WHICH COULD BE READ AS LEAVING AGENCY WITHOUT ANY OPTION TO OBJECT IF EURATOM PREPARED HAVE AGREEMENT COME INTO EFFECT. OTHER PROBLEMS INCLUDE MANY REFERENCES IN AGREEMENT TO THE TREATY, PARTICULARLY THE BASIC UNDERTAKING IN ARTICLE 1 ("THE STATES UNDERTAKE, PURSUANT TO ARTICLE III.1 OF THE TREATY, TO ACCEPT SAFEGUARDS"). IF DEPARTMENT HAS VIEWS ON ACCEPTABILITY OF ENTRANCE INTO FORCE OF AGREEMENT PRIOR TO RATIFICATION OF TREATY WHICH IT WOULD WISH HAVE CONVEYED TO OTSUKA IN TIME TO INFLUENCE AGENCY'S LEGAL OPINION, PLEASE ADVISE SOONEST.

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3. FOR MANY REASONS RELATED TO OUR WORK (ZANGGER COMMITTEE, NPT REVIEW CONFERENCE, EFFECT ON JAPANESE RATIFICATION, AND US-SOVIET RELATIONS ON NUCLEAR SUPPLY MATTERS), WE BELIEVE IT TO BE STRONGLY IN US INTEREST ENCOURAGE PROMPT DEPOSIT OF INSTRUMENT OF RATIFICATION OF NPT BY FRG AND AS SOON AS POSSIBLE THEREAFTER BY OTHER EURATOM NNWS. HOWEVER, WE CAN WELL UNDERSTAND FRG CONCERN THAT IF IT DEPOSITS IT COULD BE CAUGHT BETWEEN 18-MONTHS DEADLINE FOR ENTRANCE INTO FORCE OF SAFEGUARDS

AGREEMENT (ARTICLE III.4 OF NPT) AND ITS COMMITMENT TO EURATOM
ALLIES NOT TO HAVE AGREEMENT COME INTO FORCE UNTIL ALL SIGNATORIES
READY.

4. ACTION REQUESTED: WE RECOMMEND THAT WHEN FRG DELIVERS
ITS INTERPRETIVE DECLARATION ON NPT TO DEPARTMENT (BONN 3743),
DEPARTMENT INQUIRE ABOUT PLANS FOR DEPOSIT OF INSTRUMENT.
IF THIS LEADS TO DISCUSSION OF ITALIAN PROBLEM, AS EXPECTED,
DEPARTMENT SHOULD URGE FRG APPROACH IN ROME AND EXPRESS WILLINGNESS
MAKE SUPPORTIVE DEMARCHE ON ITALIANS AT HIGH LEVEL. GERMAN AND
AMERICAN APPROACHES COULD TAKE OPPORTUNITY MAKE POINT THAT WHILE
WE HAVE NO REASON OBJECT TO RATIFICATION OF VERIFICATION
AGREEMENT PRIOR TO RATIFICATION OF TREATY, WE WISH CONFIRM OUR
UNDERSTANDING THAT DELAY OF LATTER IS TEMPORARY AND THAT NO
WEAKENING OF GOI COMMITMENT TO NPT RATIFICATION HAS OCCURED.
WE LEAVE TO DEPARTMENT WHETHER US SHOULD REFER IN THESE DISCUSSIONS
TO PROBLEM OF CONTINUING FUEL SUPPLY TO COUNTRIES WHERE IAEA
SAFEGUARDS NOT RPT NOT BEING APPLIED, PARTICULARLY IN LIGHT
OF APPROACHING NPT REVIEW CONFERENCE AND ITS POTENTIAL SPOTLIGHT
ON US OBLIGATIONS UNDER ARTICLE III.2. PORTER

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